

**STATEMENT OF ABRAHAM FERDAS
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BEFORE THE SUBCOMMITTEE ON
FEDERALISM AND THE CENSUS
COMMITTEE ON GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES**

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INTRODUCTION

Good morning, Mr. Chairman, and members of the Subcommittee. My name is Abraham Ferdas, and I direct the Environmental Protection Agency's Hazardous Site Cleanup Division in Region 3. I am appearing today to discuss EPA's Brownfields Program and our efforts in the Commonwealth of Pennsylvania, which is located in Region 3.

Brownfields are all around us, in the smallest towns and largest cities -- empty warehouses, decrepit factories, vacant corner gas stations, and junk-strewn lots. Brownfields are defined by statute as "real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant." In other words, properties where environmental concerns are a barrier to reuse. Estimates of the number of brownfields across the country range from 450,000 to more than a million properties.

EPA's Brownfield program began over a decade ago. Nationwide, EPA initially provided seed money to communities for inventorying brownfields and assessing contamination. In response to community requests, additional tools were added to the brownfields' effort. Grants were made to capitalize revolving loan funds for cleanup. Brownfields job training grants were developed to promote employment in brownfields communities. A tax incentive was enacted to encourage private sector investment. States, Tribes, local governments and non-governmental

organizations began to focus on brownfields, creating local and regional approaches to revitalizing properties.

The national brownfields effort has produced successful results. Since the first grants were awarded, EPA and its grant recipients have performed more than 7,400 assessments. Brownfields grantees have leveraged \$7.2 billion in cleanup and redevelopment dollars, leveraging more than 33,000 jobs. Brownfields have proven to be a good public investment, with every public dollar spent on brownfields leveraging about \$2.50 in private investment. Brownfields revitalization also produces long-term sustainability benefits, with every acre of brownfields reused saving 4.5 acres of greenspace. The brownfields initiative has become a national effort, linking environmental protection, economic development and community revitalization.

Strong support by President Bush and Congress for brownfields cleanup and redevelopment culminated in the passage of the Small Business Liability Relief and Brownfields Revitalization Act, also known as the Brownfields Law. Signed by President Bush on January 11, 2002 in Conshohocken, Pennsylvania, the Brownfields Law provided EPA with a clear Congressional mandate on brownfields. The Brownfields Law expanded EPA's Brownfields Program, boosted funding levels, expanded the entities, properties and activities eligible for EPA funding, clarified and strengthened liability protection for certain property owners and provided increased support to state and tribal response programs.

EPA has taken great efforts to implement the new law. EPA developed and published guidelines for the many new grant programs for assessment, revolving loan fund and cleanup grants; state and tribal response program grants; and, research, training and technical assistance

grants. These new programs required application guidelines, funding competitions and selection processes – and they were completed and grants awarded in the first fiscal year following the passage of the new law. EPA has awarded more than 540 brownfields grants in both FY2004 and FY2005 that totaled in excess of \$142 million. More specifically, since the start of EPA's brownfields program, \$31 million of competitive EPA brownfield grants have been awarded to, and continue to help revitalize numerous communities throughout the mid-Atlantic states. In Pennsylvania alone, EPA awards approximately \$1 million annually to the Pennsylvania Department of Environmental Protection (DEP) to further advance their brownfield redevelopment program.

EPA'S BROWNFIELDS PROGRAM

Brownfields Grants

I would like to describe the Brownfields Program components in greater detail. Assessment grants provide funding to inventory, characterize, and assess properties; develop cleanup plans; and conduct community involvement activities related to brownfields. Environmental site assessments provide the information that communities and property owners need to move forward with reuse. In fact, up to one third of the sites assessed show little or no contamination, freeing the site for redevelopment through a relatively small public investment. Over the years, EPA has awarded hundreds of assessment grants, generally \$200,000 each, to communities large and small. The Brownfields Law expanded the eligibility to new entities such as redevelopment authorities and allowed additional assessment-related activities such as

planning to be done by grant recipients. Over the past three years under the new law, EPA has awarded 446 assessment grants for \$102.3 million.

Using EPA Brownfields grant funding, the Lehigh Valley Economic Development Corporation (LVEDC), in partnership with Lehigh and Northampton Counties, has conducted environmental assessment work at nearly a dozen properties in three major municipalities across the Lehigh Valley. In many cases, the environmental uncertainties associated with these properties have been alleviated, clearing the way for meaningful reuse of these former brownfields.

Luzerne County has used its \$200,000 Brownfields assessment grant to complete assessments at six properties and is presently developing a Geographic Information System (GIS) database of all existing unreclaimed abandoned mine lands in Luzerne and Lackawanna Counties.

In addition, EPA has the authority to conduct Targeted Brownfields Assessments. These single-property assessments are designed to help communities on a more direct basis, especially those lacking EPA assessment grants. EPA allocated \$6.6 million for Targeted Brownfields Assessment support in fiscal years 2003 and 2004.

Under its new authority, EPA may now provide direct cleanup grants of up to \$200,000 per site to public sector and non-profit property owners to carry out cleanup activities at brownfield sites. In the past three years, EPA has awarded 249 cleanup grants for \$44.8 million. In Johnstown, the Redevelopment Authority has used three EPA cleanup grants totaling \$600,000 to support the city's ongoing and dynamic revitalization efforts. Thanks to one of these cleanup grants, for example, a portion of the Cambria Ironworks property has been cleaned

up, resulting in the expansion of a local tenant's pre-existing business and thereby increasing the local tax base, while also using existing industrial infrastructure to ultimately preserve greenspace.

Most recently, EPA awarded a cleanup grant to help facilitate the redevelopment of the Riverfront South property in Bensalem that was contaminated with volatile organic compounds, PCBs and heavy metals. The site will be transformed into a mixed-use complex that houses residential, commercial, and greenspace along a well-located site next to the Delaware River.

The Brownfields Program also supports property cleanup by providing grants to capitalize cleanup revolving loan funds. The Brownfields Revolving Loan Fund (RLF) grants provide state and local governments with capital to make sub-grants or low or no-interest loans to finance brownfields cleanup. The 2002 Brownfields Law was pivotal in the continued success of the RLF program. It provided new flexibility to the program because it expanded properties and activities that are eligible for funding, provided the capability to make sub-grants as well as loans for cleanup, and streamlined technical requirements while still ensuring health and the environment are protected. Over the past three years, EPA has awarded 58 revolving loan fund grants for \$68.1 million and looks forward to even greater momentum in making loans against these grants in the coming years.

The Bucks County Redevelopment Authority (BCRDA) recently awarded a \$1 million loan from an EPA Revolving Loan Fund grant to further address the Riverfront South property's strategic redevelopment plans. Working closely with EPA Region 3 and the Commonwealth of Pennsylvania, BCRDA continues to leverage not only these valuable federal resources, but also state and local resources throughout the area to ensure greater benefit to local communities.

Under EPA's brownfields authority, sites contaminated with petroleum are now also eligible for assessment and cleanup grants. The Brownfields Law requires 25% of assessment and cleanup grant funding be directed to sites with petroleum contamination. Indeed, since passage of the Brownfields Law, EPA has awarded 313 assessment, cleanup and revolving loan fund grants totaling \$67.5 million for petroleum contaminated brownfields.

The Brownfields Law also broadened the definition of what could be considered a brownfield, thus making mine-scarred lands and sites contaminated by controlled substances (often these sites are drug labs found in residential areas) eligible for grants. We have seen an increased number of proposals from states, tribes and communities working on these kinds of sites.

Region 3 has helped pave the way to include mine-scarred land sites in the national Brownfields program. Prior to passage of the Brownfield Law, for example, Central City received one of the country's first brownfield grants ever awarded to address contamination from mine-scarred lands. Since passage of the Brownfields Law, several other Region 3 communities have received funding to address mine-scarred land projects. This includes the recent award of a second EPA cleanup grant to the non-profit organization Earth Conservancy to clean up mine-scarred sites in the Nanticoke area.

EPA is also working with six other Federal agencies on the Federal Brownfields Mine Scarred Land Initiative to provide unified Federal support to local communities. Three of the six demonstration projects that were selected nationally to help clean up and reuse mine-scarred lands are located in Region 3. In the Hazleton area, a combination of mine-scarred land properties owned by the Community Area New Development Organization, or "CAN

DO”, the Cranberry Creek Corridor, and the Harwood Innovations site, was collectively named as one of the nation’s first-ever demonstration projects for this initiative.

In reviewing proposals and awarding grants, EPA has found that brownfields come in a range of sizes and types. Brownfields are often stereotyped as large industrial sites in urban areas. The reality is that the majority of brownfields are small properties like dry cleaners, vacant lots and gas stations. More than half of the grants have gone to communities of less than 100,000 people.

In addition to assessment and cleanup funding, EPA also funds brownfields training, research and technical assistance. As communities engage in cleaning up of brownfields, EPA recognizes the need for a workforce with environmental cleanup skills. To date, EPA has awarded 93 job training grants, including 37 grants since passage of the law, resulting in the placement of more than 1400 individuals with an average wage of \$13.00 an hour.

State and Tribal Programs

The high demand for brownfields cleanup and redevelopment in communities throughout the country, coupled with increasingly limited state and tribal resources, makes access to federal funding critical. The development of successful state and tribal programs is essential to insuring the successful implementation of the brownfields program because they are the environmental regulators of brownfields cleanups.

Under section 128(a) of the Brownfields Law, EPA provides financial assistance to establish or enhance state and tribal programs so they can meet the challenges of brownfields cleanup and redevelopment. In fiscal year 2005, EPA provided \$49.5 million to 49 states, 50

tribes, the District of Columbia, and 3 territories (Guam, U.S. Virgin Island, and the Northern Mariana Islands). This funding is helping states and tribes to develop or enhance their response programs' infrastructure and capabilities.

For some recipients, the funding provides an opportunity to create new response programs to address contaminated properties. States and tribes also can use the funds to capitalize a revolving fund for cleanup, purchase environmental insurance, or develop other insurance mechanisms to provide financing for cleanup activities. In addition, the funds can be used to establish or maintain the statutorily required public record, to oversee cleanups, and to conduct limited site-specific activities. Providing financial assistance to states and tribes increases their capacity to meet brownfields cleanup and redevelopment challenges. It also helps to ensure that brownfield cleanups are protective in accordance with Federal, state and tribal standards.

EPA also partners with states to develop Memoranda of Agreement (MOAs) that clarify program roles and responsibilities. EPA has signed 22 MOAs and is working on additional new and expanded MOAs. Here in Region 3, we have MOAs with four states, including Pennsylvania, and have maintained close partnerships with them since the inception of the Brownfield Program. These partnerships are an integral part of our success.

Pennsylvania Program

As a whole, the Commonwealth of Pennsylvania, and its 61 communities and non-profits who have received \$19 million in EPA Brownfield's funding, represent one of the nation's largest concentrations of Brownfield resources.

Last year, EPA and Pennsylvania's DEP entered into the nation's first One-Cleanup Memorandum of Agreement to create a single, coordinated EPA-DEP cleanup program to streamline the redevelopment process. The agreement will minimize duplication of efforts, and ultimately reach the largest number of communities possible. The MOA provides a "one-stop" approach that allows communities, builders, lenders and businesses get much of what they need from a coordinated EPA-DEP program to ensure they are satisfying state requirements in ways that are also consistent and complementary to EPA's cleanup programs.

Liability Protection

A final element of the Brownfields Program focuses on providing important liability protections and clarifications for certain landowners who are not responsible for site contamination. These protections increase comfort and certainty regarding the purchase and redevelopment of brownfields. EPA has worked to clarify federal liability, particularly under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA has streamlined administrative practice and issued guidance and enforcement discretion policies to encourage brownfields cleanup and redevelopment. In fact, many of the protections in the Brownfields Law are essentially statutory codifications of existing EPA enforcement discretion policies.

The Brownfields Law also clarifies the landowner liability protections of bona fide prospective purchasers, innocent landowners and contiguous property owners under CERCLA. To qualify for liability protection, these property owners must satisfy certain statutory requirements. For example, prior to acquiring a property, purchasers must meet environmental

due diligence requirements by undertaking “all appropriate inquiries” into the condition of the property. EPA is developing a regulation establishing standards for conducting “all appropriate inquiries.” The Agency did this through a collaborative stakeholder negotiated rulemaking. The proposed rule was published in August 2004 and we plan to issue the final rule in November of this year.

The Brownfields Law also provides federal CERCLA liability protection for parties who conduct a cleanup of certain brownfields properties under state response programs. EPA issued guidance that explained which properties currently in the CERCLA system would be eligible for federal liability protection.

CONCLUSION

EPA’s Brownfields Program serves as an innovative approach to environmental protection, spurring environmental cleanup, reducing neighborhood blight, generating tax revenues, and creating jobs. Continuing our success will require ever more interaction and collaboration among all levels of government, the private sector and non-governmental organizations. EPA is dedicated to continuing our efforts to reach out to our partners and the Administration is committed to continuing strong funding for the program.

EPA will continue to implement the program to protect human health and the environment, enhance public participation in local decision-making, build safe and sustainable communities through public and private partnerships, and recognize that environmental protection can be the engine that drives economic redevelopment.